

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

WAKE COUNTY

2014 JUL 30 PM 3: 02 FILE NO.: 14 CVS 10209

THE NORTH CAROLINA STATE BAR,

WAKE COUNTY, C.S.G.

Petitioner

v.

TEMPORARY RESTRAINING  
ORDER

SEAN D. SOBOLESKI, Attorney,

Respondent

THIS MATTER came on to be heard by the undersigned Judge of Superior Court of Wake County pursuant to Petitioner's Motion for Temporary Restraining Order and Petition for Preliminary Injunction. Petitioner, the North Carolina State Bar ("State Bar"), was represented by Leanor Bailey Hodge. Respondent, Sean D. Soboleski appeared *pro se*. Based upon the evidence presented to the Court, the Court makes the following:

#### FINDINGS OF FACT

1. Respondent, Sean D. Soboleski ("Soboleski"), was licensed to practice law in North Carolina in 2001.
2. Soboleski practices law in Asheville, North Carolina. The State Bar's membership database shows the following address for Soboleski: 900 Hendersonville Road, Suite 302, Asheville, North Carolina 28803.
3. Soboleski maintained three trust accounts: (i) HomeTrust Bank trust account ending in no. 1115 (hereafter "general trust account"), (ii) HomeTrust Bank trust account ending in no. 1412 (hereafter "real estate trust account") and (iii) Mountain 1<sup>st</sup> Bank trust account ending in no. 3575.
4. On several occasions from 1 July 2012 through 31 October 2013 Soboleski or someone acting on his behalf transferred funds from the real estate trust account and the general trust account to his firm payroll and operating accounts.
5. Soboleski did not indicate on the items he used to transfer entrusted funds the name of the client from whose trust account balance Soboleski purported to transfer the funds.
6. The State Bar's preliminary investigation has revealed that on many of the occasions when Soboleski transferred funds he was not entitled to the funds that he transferred.

7. The State Bar's investigation further shows that on at least two occasions, the balance in either Soboleski's payroll or personal account was below zero when Soboleski made the transfers described above.

8. The foregoing facts establish that funds held in trust by Soboleski have been mishandled in violation of Rules 1.15-2 and 1.15-3 of the Rules of Professional Conduct.

9. A need for prompt action exists to ensure that additional funds entrusted to Soboleski are not mishandled.

Based upon the foregoing findings, the Court makes the following:

#### CONCLUSIONS OF LAW

1. Prompt action, pursuant to N.C. Gen. Stat. § 84-28(f), is necessary to preserve the status quo while the State Bar continues its analysis of Soboleski's accounts and to ensure that no additional client funds are mishandled.

2. This Court has personal jurisdiction over Soboleski and jurisdiction over the subject matter. This matter is properly before the Wake County Superior Court pursuant to N.C. Gen. Stat. § 84-28(f).

3. Soboleski should be enjoined from receiving any funds from or on behalf of clients in a fiduciary capacity; writing checks against or otherwise disbursing or withdrawing funds from any account in which client funds have been deposited; and/or directing or permitting any employee or agent to draw a check on or otherwise disburse or withdraw funds from any account in which client funds have been deposited.

4. To assist the State Bar's analysis of his accounts, Soboleski should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited.

5. Soboleski should not be permitted to handle entrusted client funds in any capacity until further order of this Court.

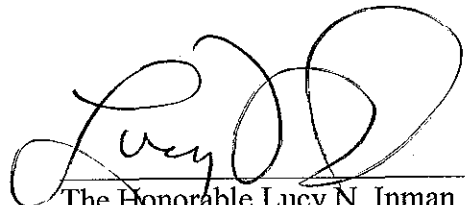
#### THEREFORE, IT IS HEREBY ORDERED:

1. Sean D. Soboleski should be enjoined from receiving any funds from or on behalf of clients in a fiduciary capacity; writing checks against or otherwise disbursing or withdrawing funds from any account in which client funds have been deposited; and/or directing or permitting any employee or agent to draw a check on or otherwise disburse or withdraw funds from any account in which client funds have been deposited.

2. This matter is scheduled for a hearing on the State Bar's Petition for Preliminary Injunction on the 5<sup>th</sup> day of August, 2014 at 9:30 A.M. in the Wake County Courthouse, Courtroom 10-C in Raleigh, North Carolina.

3. This Temporary Restraining Order shall remain in effect until the 5<sup>th</sup> day of August 2014 unless extended by further orders of this Court.

THIS the 30<sup>th</sup> day of July, 2014 at 3 P. M.



The Honorable Lucy N. Inman  
Wake County Superior Court Judge

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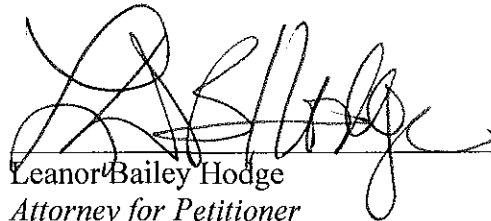
Respondent

CERTIFICATE  
OF SERVICE

I hereby certify that the foregoing filed, date stamped copy of the *Temporary Restraining Order*, concerning the above captioned matter, has been served upon the Respondent by depositing same in the United States mail, postage paid, in an envelope addressed as follows:

Sean D. Soboleski  
Soboleski Law P.C.  
900 Hendersonville Rd.  
Suite 302  
Asheville, NC 28803

This the 31<sup>st</sup> day of July, 2014.



Leonor Bailey Hodge  
*Attorney for Petitioner*  
The North Carolina State Bar